

CV 06 3150
FEUERSTEIN, J.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JOHN O'BRIEN,

Plaintiff,
-against-

AMERICAN AIRLINES, INC.,

Defendant.

GO, M.J.

NOTICE OF REMOVAL

REMOVED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

* JUN 26 2006 *

BROOKLYN OFFICE

[Signature]
NCT

PLEASE TAKE NOTICE that defendant, AMERICAN AIRLINES, INC., by and through their attorneys, RUTHERFORD & CHRISTIE, LLP, hereby remove this action to the United States District Court for the Eastern District of New York, pursuant to 28 U.S.C. §§ 1441 and 1332.

1. This action was commenced against AMERICAN AIRLINES, INC. in the Supreme Court of the State of New York, County of Queens, by the filing of a Summons and Verified Complaint with the Clerk of the Court on or about June 5, 2006.
2. Upon information and belief and pursuant to the averments in the Summons and Verified Complaint, plaintiff is a permanent resident of the County of Queens and, therefore, is domiciled in and a citizen of, the State of New York.
3. At the time of service of the Summons and Verified Complaint, AMERICAN AIRLINES, INC., was and is incorporated under the laws of the State of Delaware, with their

principal place of business in Texas and therefore are citizens of the State of Delaware and of the State of Texas.

4. Therefore, the action is between citizens of different states as defined by 28 U.S.C. § 1332(a)(1).

5. The Complaint seeks damages for personal injury due to the alleged negligence of AMERICAN AIRLINES, INC. in excess of the jurisdictional limitations of all lower Courts in the State of New York which would otherwise have jurisdiction and upon information and belief, the matter in dispute exceeds the sum of seventy-five thousand dollars exclusive of interest and costs.

6. This cause of action is one over which this Court has original jurisdiction pursuant to 28 U.S.C. §1332, in that the amount in controversy upon information and belief, exceeds \$75,000 exclusive of interest and costs, and that it is between citizens of different states. By virtue of 28 U.S.C. §1441(a), this cause of action is removable to this Court.

7. Defendant, AMERICAN AIRLINES, INC. was purportedly served with a copy of the initial pleading setting forth the claim upon which this action is based on or about June 9, 2006.

8. In accordance with 28 U.S.C. § 1446(b), this Notice of Removal is filed within 30 days after receipt by the defendant of a copy of the initial pleading.

9. Based upon the facts set forth above, this Notice of Removal is timely under 28 U.S.C. § 1446(b).

10. Pursuant to 28 U.S.C. 1446(a), copies of the Summons and Verified Complaint, which constitute all process, pleadings or orders served or filed by the parties in the Supreme Court of the State of New York, are attached hereto as Exhibit "A" and made a part of this Notice by reference.

11. AMERICAN AIRLINES, INC. and AMR CORPORATION will pay all costs and disbursements by reason of this removal proceeding should it be determined that this case is not removable or is improperly removed.

12. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

WHEREFORE, and without waiver of any substantial or procedural defenses, AMERICAN AIRLINES, INC., requests that this Court assume jurisdiction over this action and make such further orders herein as may be required to properly determine its controversy.

Dated: New York, New York
June 26, 2006

Respectfully submitted,

RUTHERFORD & CHRISTIE, LLP

By: 

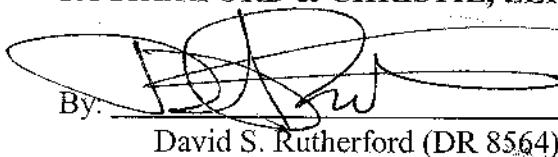
David S. Rutherford (DR 8564)
Attorneys for Defendant,
AMERICAN AIRLINES, INC.
300 East 42nd Street, 18th Floor
New York, New York 10017
(212) 599-5799

TO: MICHAEL T. SAVELLI, ESQ.
Attorney for Plaintiff
323 Willis Avenue, Suite 1
Mineola, New York 11501
(516) 746-8100

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of DEFENDANTS' NOTICE OF REMOVAL, TO THE CLERK OF THE SUPREME COURT, NASSAU COUNTY; NOTICE OF REMOVAL and NOTICE TO ADVERSE PARTY OF FILING OF NOTICE OF REMOVAL were served via regular mail to Michael T. Savelli, Esq, 323 Willis Avenue, Suite 1, Mineola, New York 11501 on the 26TH day of June, 2006.

RUTHERFORD & CHRISTIE, LLP

By: 

David S. Rutherford (DR 8564)
Attorneys for Defendant,
AMERICAN AIRLINES, INC.
300 East 42nd Street, 18th Floor
New York, New York 10017
(212) 599-5799

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

JOHN O'BRIEN,

X

Index No. 12596/06

Plaintiff,

-against-

AMERICAN AIRLINES, INC.,

Defendant.

X

TO: CLERK OF THE SUPREME COURT OF THE STATE OF NEW YORK,
COUNTY OF QUEENS
88-11 Sutphin Blvd.
Jamaica, New York 11435

PLEASE TAKE NOTICE that on June 26, 2006, the defendant, AMERICAN AIRLINES, INC. duly filed a Notice of Removal, a copy of which is annexed hereto, removing this action in its entirety to the United States District Court for the Eastern District of New York.

Dated: New York, New York
June 26, 2006

Respectfully submitted,

RUTHERFORD & CHRISTIE, LLP

By _____

David S. Rutherford
Attorneys for Defendant,
AMERICAN AIRLINES, INC.
300 East 42nd Street, 18th Floor
New York, New York 10017
(212) 599-5799

TO: MICHAEL T. SAVELLI, ESQ.
Attorney for Plaintiff
323 Willis Avenue, Suite 1
Mineola, New York 11501
(516) 746-8100

AFFIDAVIT OF SERVICE VIA MAIL

STATE OF NEW YORK }
 ss.:
COUNTY OF NEW YORK }

Kevin Sweeney, being duly sworn, deposes and says:

Deponent is not a party to the within action, is over 18 years of age and resides in Nassau County of the State of New York.

That on the 26th day of JUNE , 2006 deponent served the within **NOTICE OF REMOVAL TO THE CLERK OF THE SUPREME COURT QUEENS COUNTY** upon:

MICHAEL T. SAVELLI, ESQ.
Attorney for Plaintiff
323 Willis Avenue, Suite 1
Mineola, New York 11501
(516) 746-8100

attorneys for the plaintiffs in this action, at the address designated by said attorneys for that purpose, by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office within the State of New York.



Kevin Sweeney

Sworn to before me on this
26th day of June , 2006



NOTARY PUBLIC

LEWIS R. SILVERMAN
Notary Public, State of New York
No. 02915049718
Qualified in Westchester County
Commission Expires 09/18/2008

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

JOHN O'BRIEN,

Plaintiff,

-against-

AMERICAN AIRLINES, INC.

**NOTICE TO ADVERSE
PARTY OF FILING OF
NOTICE OF REMOVAL**

Defendant,

-----X

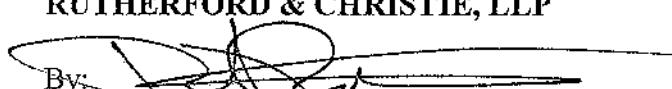
PLEASE TAKE NOTICE, that on June 26, 2006, defendant, AMERICAN AIRLINES, INC. duly filed the Notice of Removal in this action in its entirety to the United States District Court for the Eastern District of New York.

A copy of the Notice of Removal with copies of all process, pleadings and orders served on the defendant AMERICAN AIRLINES, INC. and/or filed in the Supreme Court of the State of New York, County of Queens, are annexed hereto.

Dated: New York, New York
June 26, 2006

Respectfully submitted,

RUTHERFORD & CHRISTIE, LLP

By: 

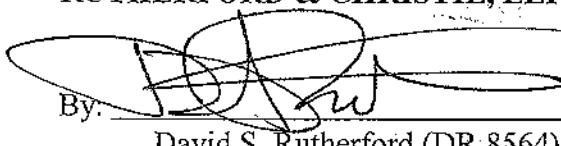
David S. Rutherford (DR 8564)
Attorneys for Defendant,
AMERICAN AIRLINES, INC.
300 East 42nd Street, 18th Floor
New York, New York 10017
(212) 599-5799

TO: MICHAEL T. SAVELLI, ESQ.
Attorney for Plaintiff
323 Willis Avenue, Suite 1
Mineola, New York 11501
(516) 746-8100

CERTIFICATE OF SERVICE

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RUTHERFORD & CHRISTIE, LLP

By: 

David S. Rutherford (DR-8564)
Attorneys for Defendant,
AMERICAN AIRLINES, INC.
300 East 42nd Street, 18th Floor
New York, New York 10017
(212) 599-5799

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

X

SUMMONS

JOHN O' BRIEN,

Plaintiff,

-against-

Index No.:

12596/06
6/5/06

AMERICAN AIRLINES, INC.,

Defendant.

X

**PLAINTIFF DESIGNATES QUEENS COUNTY AS PLACE OF TRIAL
BASIS OF VENUE IS PLAINTIFF'S RESIDENCE**

YOU ARE HEREBY SUMMONED to answer the Complaint in this action by serving your answer on plaintiff's attorney within 20 days after service of this summons, exclusive of the day of service, or within 30 days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer or appear, Judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: Mineola, New York
June 1, 2006

PLAINTIFF'S ADDRESS:

JOHN O' BRIEN
218 Beach 118th Street
Rockaway Park, NY 11694

DEFENDANT'S ADDRESS FOR SERVICE:

AMERICAN AIRLINES, INC.

C/O CT CORPORATION SYSTEM
111 Eighth Avenue
New York, NY 10011

Yours, etc.

By:

Michael Savelli
MICHAEL T. SAVELLI, ESQ.
Attorney for Plaintiff
JOHN O' BRIEN
323 Willis Avenue, Suite 1
Mineola, New York 11501
(516) 248-0505

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-X

JOHN O' BRIEN,

VERIFIED
COMPLAINT

Plaintiff,

-against-

Index No.:

AMERICAN AIRLINES, INC.,

Defendant.

-X

Plaintiff, by his attorney, MICHAEL T. SAVELLI, ESQ., complaining of defendant, AMERICAN AIRLINES, INC., respectfully allege, upon information and belief, as follows:

1. That on September 18, 2004, and all times hereinafter mentioned, plaintiff, JOHN O' BRIEN, was and still is a resident of the County of Queens, State of New York.
2. That on September 18, 2004, and all times hereinafter mentioned, defendant, AMERICAN AIRLINES, INC., was and still is a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.
3. That on September 18, 2004, and all times hereinafter mentioned, defendant, AMERICAN AIRLINES, INC., was and still is a foreign corporation duly authorized to do business in the State of New York.
4. That on September 18, 2004, and all times hereinafter mentioned, defendant, AMERICAN AIRLINES, INC., was and still is a partnership duly organized and existing pursuant to the laws of the State of New York.

5. That on September 18, 2004, and all times hereinafter mentioned, defendant, AMERICAN AIRLINES, INC., maintained a principal place of business in the County of Bronx, State of New York.

6. That on September 18, 2004, and all times hereinafter mentioned, defendant, AMERICAN AIRLINES, INC., transacted business and continues to transact business within the State of New York.

7. That on September 18, 2004, and all times hereinafter mentioned, defendant, AMERICAN AIRLINES, INC., has contracted and continues to contract with members of the general public to supply services in the State of New York.

8. That on September 18, 2004, and all times hereinafter mentioned, defendant, AMERICAN AIRLINES, INC., leased the premises and appurtenances and fixtures thereto, located within hangar #3, and more specifically in front of or near door number 267 at LaGuardia Airport, County of Queens, State of New York.

9. That on September 18, 2004, and all times hereinafter mentioned, defendant, AMERICAN AIRLINES, INC., owned the premises and appurtenances and fixtures thereto, located within hangar #3, and more specifically in front of or near door number 267 at LaGuardia Airport, County of Queens, State of New York.

10. That on September 18, 2004, and all times hereinafter mentioned, defendant, AMERICAN AIRLINES, INC., operated the premises and appurtenances and fixtures thereto, located within hangar #3, and more specifically in front of or near door number 267 at LaGuardia Airport, County of Queens, State of New York.

11. That on September 18, 2004, and all times hereinafter mentioned, defendant, AMERICAN AIRLINES, INC., managed the premises and appurtenances and fixtures thereto,

located within hangar #3, and more specifically in front of or near door number 267 at LaGuardia Airport, County of Queens, State of New York.

12. That on September 18, 2004, and all times hereinafter mentioned, defendant, AMERICAN AIRLINES, INC., controlled the premises and appurtenances and fixtures thereto, located within hangar #3, and more specifically in front of or near door number 267 at LaGuardia Airport, County of Queens, State of New York.

13. That on September 18, 2004, and all times hereinafter mentioned, defendant, AMERICAN AIRLINES, INC., maintained the premises and appurtenances and fixtures thereto, located within hangar #3, and more specifically in front of or near door number 267 at LaGuardia Airport, County of Queens, State of New York.

14. That on September 18, 2004, and all times hereinafter mentioned, defendant, AMERICAN AIRLINES, INC., repaired the premises and appurtenances and fixtures thereto, located within hangar #3, and more specifically in front of or near door number 267 at LaGuardia Airport, County of Queens, State of New York.

15. That on September 18, 2004, and all times hereinafter mentioned, defendant, AMERICAN AIRLINES, INC., inspected the premises and appurtenances and fixtures thereto, located within hangar #3, and more specifically in front of or near door number 267 at LaGuardia Airport, County of Queens, State of New York.

16. That on September 18, 2004, plaintiff, JOHN O' BRIEN was lawfully on the aforesaid premises in accordance with his employment.

17. That on September 18, 2004, while plaintiff, JOHN O' BRIEN was lawfully about the aforesaid premises at the aforementioned location he was caused to slip and fall and sustain serious and permanent injuries.

18. The above mentioned occurrence, and the results thereof, were caused by the joint, several and concurrent negligence of the defendant and/or its servants, agents, employees and/or licensees in the ownership, operation, management, supervision, maintenance, repair and control of the aforesaid premises.

19. That no negligence on the part of the plaintiff contributed to the occurrence alleged herein in any manner whatsoever.

20. That as a result of the foregoing, plaintiff was caused to sustain serious injuries and to have suffered pain, shock, mental anguish; that these injuries and their effects will be permanent; as a result of said injuries plaintiff was caused, and will continue to be caused, to incur expenses for medical care and attention; and plaintiff was, and will continue to be, rendered unable to perform plaintiff's normal activities and duties and has sustained a resultant loss therefrom.

WHEREFORE, plaintiff, JOHN O' BRIEN, demands judgment against defendant, AMERICAN AIRLINES, INC., in the amount in excess of the jurisdictional limit of this Court, together with the costs and disbursements of this action.

Dated: Mineola, New York
June 1, 2006

Yours, etc.

By: 
MICHAEL T. SAVELLI, ESQ.
Attorney for Plaintiff
JOHN O' BRIEN
323 Willis Avenue, Suite 1
Mineola, New York 11501
(516) 248-0505

In the Matter of the Claim of

JOHN O'BRIEN,

-against-

AMERICAN AIRLINES, INC.

SUMMONS and VERIFIED COMPLAINT

MICHAEL T. SAVELLI, ESQ.

Attorney for Claimant

JOHN J. O'BRIEN

323 Willis Avenue, Suite 1

Mineola, New York 11501

(516) 248-0505

fax (516) 248-0566

To:

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

Sir: Please take notice

NOTICE OF ENTRY

That the within is a (certified) true copy of a
entered in the office of the Clerk of the within named
Court on

200

NOTICE OF SETTLEMENT

that an Order _____
Hon. _____, one of the judges of the within named Court, at
on

Dated:

MICHAEL T. SAVELLI, ESQ.

323 Willis Avenue, Suite 1